



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

July 20, 2020

BY ECF

Hon. Jesse M. Furman
United States District Judge
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Open Society Justice Initiative v. Department of Defense et al.*
No. 20 Civ. 5096 (JMF)

Dear Judge Furman:

This Office represents the defendants in the above-referenced action brought pursuant to the Freedom of Information Act (“FOIA”). We write respectfully on behalf of the parties in accordance with this Court’s Order dated July 6, 2020, directing the parties to provide a status letter indicating whether there is any need for discovery or an initial conference in this case, and if not, providing a proposed briefing schedule for any motions in this case. (*See* Dkt. No. 18.)

Because this is a FOIA action, it is not generally subject to civil discovery. Instead, this case will be resolved either through the parties’ agreement, or by the submission of cross-motions for summary judgment on the basis of agency declarations. *Carney v. DOJ*, 19 F.3d 807, 812 (2d Cir. 1994). Therefore, the parties agree that there is no need for discovery.

With regard to a proposed briefing schedule, the Government is not yet in a position to propose a schedule for summary judgment briefing. As we have advised the plaintiff, counsel for the Government were assigned to this case just last week. Since then, we have reached out to each of the agency defendants in this case and provided a copy of the Complaint, but we do not yet know each agency’s position with respect to the records sought by the plaintiff. In light of this, the parties have agreed to allow the Government additional time to determine the defendant agencies’ positions in this litigation. Thus, the parties respectfully propose that they submit another status letter on or before August 20, 2020, at which time the parties will also request a status conference at the Court’s convenience. In addition, the Government intends to file an Answer to the Complaint by the current deadline of August 7, 2020.

Respectfully,

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Acting United States Attorney

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